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April 18, 2019

Via Electronic Mail

NCAA Division I Committee on Student-Athlete Reinstatement

Re: Letter in Support of University of Kansas' Appeal and Request for Immediate Reinstatement of Eligibility for Men's Basketball Student-Athlete Silvio De Sousa

Dear NCAA Division Committee on Student-Athlete Reinstatement:

I represent University of Kansas (University) or (Kansas) men's basketball student-athlete Silvio De Sousa. I submit this letter in support of the University's appeal and request for immediate reinstatement of Silvio's eligibility.<sup>1</sup>

The SAR homepage states "**SAR subscribes to the Students-first philosophy, ensuring the individual student-athlete, as well as the general student-athlete body, is at the forefront of each decision.**"

Putting Silvio's interests, as well as student-athletes in general, at the forefront of your decision and evaluating the totality of the undisputed factual information, the only fair and just decision is to immediately reinstate Silvio's eligibility. In considering this appeal I respectfully ask you to consider how you would want this case resolved if Silvio was at your institution or at in institution in your conference.

**I. Silvio is a Completely Innocent Victim**

Everyone involved in this case agrees that Silvio was not involved in or aware of whatever the adults did or may have done in violation of NCAA rules. Everyone also agrees that Silvio did not benefit in any way from any money that was provided by T.J. Gassnola to Silvio's guardian, Fenny Falmagne.

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<sup>1</sup> Silvio adopts and joins in the arguments and positions asserted by Kansas and, therefore, he will not repeat all of those arguments here.



Silvio did everything he was supposed to do to become an eligible student-athlete at Kansas. He excelled at basketball, he completed his high school education as a final qualifier and most importantly, he did not solicit or accept any benefits in violation of NCAA amateurism or recruiting legislation. Silvio did things the right way.

Even after doing **everything** the right way, this young man - who came to this country from Angola alone and without any family at the age of 15 - has been made to sit out his entire sophomore year. I respectfully submit that there is no legal, administrative or quasi-judicial process in the United States, other than the NCAA infractions program, in which a person is individually punished and held singularly accountable for the alleged misconduct of others, in this case adults, who the person did not and could not control.

Silvio's experience over the last seven months has truly been Kafkaesque. Indeed, Silvio does not know what he could have or should have done differently to avoid the situation he is in today.<sup>2</sup> If self-determination, i.e., the ability to define one's own destiny, is a value the NCAA cherishes and promotes through its actions, then this Committee will grant the appeal and give back to Silvio the right to determine his own destiny.

## **II. Silvio Made His Own Decision to Attend Kansas and Silvio's Decision was Not Affected in Any Way by the Alleged Violations**

There is no evidence whatsoever – **none** – that the self-reported violations or the alleged violations had any effect at all on Silvio's decision to attend Kansas. Silvio knew since at least the tenth grade that Kansas was the right school for him. He was so set on attending Kansas that it is the only school he seriously considered and the only school he visited.

Because Silvio was not involved in or aware of Gassnola's communications and interactions with Falmagne, and Falmagne did not try to improperly influence Silvio's decision or steer him to Kansas, nothing Gassnola did with Falmagne had any influence on Silvio's decision.

The Bylaw 13 Reinstatement Guidelines state in relevant part:

**1. Standard for Review.** The committee determined that recruiting violations should be analyzed under a "reasonable-person" standard, focusing on whether the recruiting violation would have affected a "reasonable-person's" decision to attend the institution.

**2. Conditions Imposed for Recruiting Violations.** The committee determined that if a significant recruiting violation is gained (even if it does not rise to the level to warrant the student-athlete's eligibility not be reinstated), the reinstatement staff or committee may impose a withholding condition to address the recruiting advantage gained. *(February 2004)*

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<sup>2</sup> Neither Kansas nor his attorney know either.



Reviewing the facts of this case, the **only** conclusion a reasonable person can make is that the recruiting violation had absolutely no effect on Silvio's decision to KU. Thus, no recruiting advantage was gained.

### **III. If Significant Violations Occurred, the NCAA Infractions Program Will Hold the Institution and the Adults Accountable**

The enforcement staff has been and is actively investigating the Kansas men's basketball program and the individuals responsible for overseeing and running the program, as well as the actions of any third-parties who may have done something improper under NCAA rules. If the major infractions process reveals that coaches or third-parties did something improper in connection with Silvio's recruitment and enrollment at Kansas, they can and will be accountable for their actions. There is no need to continue to punish an innocent young man for the actions of adults.

Silvio has already paid a heavy price with the loss of an entire season of eligibility for actions of adults. I respectfully ask that you reinstate Silvio immediately and let the enforcement staff and Committee on Infractions address any remaining violations and issues stemming from Kansas' recruitment of Silvio.

### **IV. Silvio Intends to Declare for the NBA Draft but He Wants to Stay at Kansas**

Because the reinstatement staff has issued a two-year penalty against Silvio which will effectively end his career at Kansas if this appeal is not granted, Silvio intends to declare for the upcoming NBA draft under recently adopted rules which permit student-athletes to sign with agents and explore entering the NBA draft, but opt out of the draft and return to an NCAA institution without the loss of eligibility as long as certain rules are followed.

Silvio wants first and foremost to stay at Kansas. He competed in 20 games as a freshman (2017-18), averaging under nine minutes per game and four points per game. That was a good start for his freshman year, but Silvio wants and needs to stay at Kansas, both for his development as a basketball player and to get a college education.<sup>3</sup>

Your Committee has an opportunity in this case to make a decision that will be life-altering for Silvio. If this appeal is denied, Silvio will be denied the opportunity to pursue his dream of playing basketball and getting an education at Kansas in preparation for the next chapter in his life, hopefully as a professional basketball player in the NBA. Silvio will be forced to pursue his basketball career overseas while forgoing the invaluable opportunity to get a college education at the same time as he develops as a basketball player. He will lose the advantages and benefits an advanced education provides for life after basketball.

However, if this appeal is granted – as it should be – Silvio will have lost a year of eligibility, but he will be able to continue both his education and basketball career at Kansas, which has been his dream since he was 16 years old. That is the only fair and just result.

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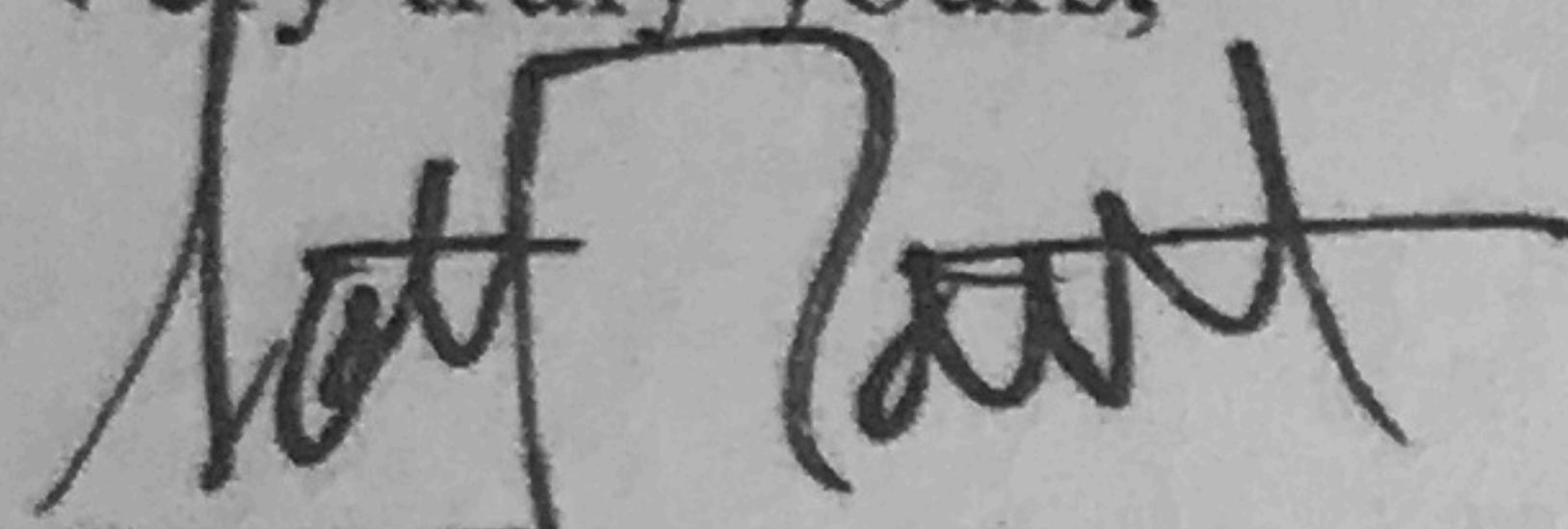
<sup>3</sup> Silvio has a cumulative GPA of 2.79 at Kansas and a GPA of 3.50 in the current spring 2019 semester.



## Conclusion

For all of the reasons stated above, I respectfully ask that you grant the University's appeal and immediately reinstate Silvio's eligibility.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Scott Tompsett', with a stylized, cursive script.

Scott Tompsett

cc: Brian White

Jeff Long

Megan Walawender

David Reed

Mike Glazier